

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ISIDRO VILLANUEVA,

Petitioner,

vs.

DIRECTOR, NEVADA DEPARTMENT
OF CORRECTIONS, *et al.*,

Respondents.

3:10-cv-00225-LRH-VPC

ORDER

This habeas matter under 28 U.S.C. § 2254 comes before the Court on petitioner's motion (#23) for voluntary dismissal.

Petitioner Isidro Villanueva has sought to challenge his Nevada state conviction, pursuant to a guilty plea, of lewdness with a child under fourteen years of age. His motion to dismiss the petition without prejudice follows upon the Court's holding that a number of grounds are unexhausted. To the extent that the motion perhaps suggests that the Court "recommended" that petitioner dismiss and exhaust grounds, the Court made no recommendation – in any respect – in its prior order. The Court held that certain grounds were unexhausted, and it gave petitioner thirty days "within which to mail to the Clerk for filing a motion for dismissal without prejudice of the entire petition, for partial dismissal only of the unexhausted claims, and/or for other appropriate relief." #20, at 6. The election as to what relief to request was left entirely to petitioner, and this Court neither is petitioner's legal advisor nor did it advise petitioner how to proceed. In the motion before the Court, petitioner "moves . . . to dismiss without prejudice his petition for writ of habeas corpus." While the current petition will be dismissed without prejudice, such a dismissal does not prevent dismissal of a later petition for untimeliness.

1 IT THEREFORE IS ORDERED that petitioner's motion (#23) for voluntary dismissal is
2 GRANTED and the petition is DISMISSED without prejudice.

3 The Clerk of Court shall enter final judgment accordingly, dismissing this action without
4 prejudice.

5 DATED this 6th day of April, 2012.



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8 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE